

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

GOVERNOR ANDREW M. CUOMO,

Movant,

v.

OFFICE OF THE NEW YORK STATE
ATTORNEY GENERAL,

Respondent.

Case No. 22 MISC 280

TROOPER 1,

Plaintiff,

v.

NEW YORK STATE POLICE, ANDREW
CUOMO, MELISSA DEROSA, and
RICHARD AZZOPARDI,

Defendants.

Pending In: Civil Action No. 22-cv-00893
(LDH) (TAM), United States District Court
for the Eastern District of New York

**DECLARATION OF THERESA TRZASKOMA IN SUPPORT OF
FORMER GOVERNOR ANDREW M. CUOMO'S MOTION TO COMPEL
THE OFFICE OF THE NEW YORK STATE ATTORNEY GENERAL'S
COMPLIANCE WITH SUBPOENA**

I, THERESA TRZASKOMA, an attorney admitted to practice before this Court, hereby declare pursuant to 28 U.S.C. § 1746 as follows:

1. I am a partner at the law firm Sher Tremonte LLP, counsel to former Governor of the State of New York Andrew M. Cuomo ("Governor Cuomo") in *Trooper 1 v. New York State Police, et al.*, No. 22-cv-00893 (LDH) (TAM), a case currently pending in the Eastern District of New York (the "Trooper 1 Action").

2. I submit this declaration in support of Governor Cuomo's Motion to Compel the Office of the New York State Attorney General's Compliance with Subpoena. I have knowledge of the issues described herein.

3. Attached hereto as **Exhibit 1** is a true and correct copy of the Amended Complaint filed by Plaintiff Trooper 1 in the Trooper 1 Action, dated February 18, 2022.

4. Attached hereto as **Exhibit 2** is a true and correct copy of the docket in the Trooper 1 Action.

5. Attached hereto as **Exhibit 3** is a true and correct copy of the subpoena served by Governor Cuomo on the Office of the New York State Attorney General (the "OAG"), in connection with the Trooper 1 Action, dated July 7, 2022 (the "Subpoena"), which was served on the OAG on July 11, 2022.

6. Attached hereto as **Exhibit 4** is a true and correct copy of the OAG's Initial Responses and Objections to the Subpoena, dated July 25, 2022.

7. Attached hereto as **Exhibit 5** is a true and correct copy of a letter sent by counsel for Governor Cuomo to the OAG, dated July 25, 2022.

8. Attached hereto as **Exhibit 6** is a true and correct copy of the OAG's Responses and Objections to the Subpoena, dated August 12, 2022.

9. Attached hereto as **Exhibit 7** is a true and correct copy of the OAG's privilege log, produced in connection with its Responses and Objections to the Subpoena, served on August 15, 2022.

10. On August 4, 2022, I, along with other counsel for Governor Cuomo, met and conferred with the OAG regarding its lack of response to the Subpoena. The OAG indicated that it would provide Governor Cuomo with written responses and objections. Counsel for Governor

Cuomo emphasized that discovery was underway in the Trooper 1 Action and that the parties' ability to comply with the court-ordered discovery schedule depended on the OAG's prompt compliance with the Subpoena.

11. On August 15, 2022, I, along with other counsel for Governor Cuomo, met and conferred with counsel for the OAG regarding the OAG's Responses and Objections to the Subpoena. Among other things, Governor Cuomo set forth his position that the materials were plainly relevant to the Trooper 1 Action, that the materials underlying the OAG's investigation were of critical importance, and that the materials are not protected by any privilege. During this discussion, the OAG stood by its objections and maintained its position as to: (i) its blanket privilege assertions; (ii) that documents not specifically related to Trooper 1 are not relevant; (iii) that the law enforcement privilege applies to the materials requested; (iv) that the communications are protected by attorney-client privilege and the attorney work product protection; (v) that the materials requested contained internal and predecisional documents protected by the deliberate process privilege; and (vi) that the public interest privilege applied because the OAG should be able to investigate independently and thoroughly without disclosure to the public.

12. Despite good-faith efforts, Governor Cuomo and the OAG arrived at an impasse. This motion to compel followed.

13. Attached hereto as **Exhibit 8** is a true and correct copy of the referral pursuant to New York Executive Law § 63(8) from Governor Cuomo to the OAG, dated March 1, 2021.

14. Attached hereto as **Exhibit 9** is a true and correct copy of a press release issued by the OAG, dated March 8, 2021.

15. Attached hereto as **Exhibit 10** is a true and correct copy of the OAG's Report of Investigation into Allegations of Sexual Harassment by Governor Andrew M. Cuomo, dated August 3, 2021 (the "OAG Report").

16. Attached hereto as **Exhibit 11** is a true and correct copy of a press release issued by the OAG regarding the OAG Report, dated August 3, 2021.

17. Attached hereto as **Exhibit 12** is a true and correct copy of a transcript of a press conference held by New York Attorney General Leticia James ("AG James") on August 3, 2021.

18. Attached hereto as **Exhibit 13** is a true and correct copy of a press release issued by the OAG regarding cooperation with the New York State Assembly's investigation, dated August 3, 2021.

19. Attached hereto as **Exhibit 14** is a true and correct copy of a press release issued by the OAG, dated August 20, 2021.

20. Attached hereto as **Exhibit 15** is a true and correct copy of a press release issued by the OAG, dated October 28, 2021.

21. Attached hereto as **Exhibit 16** is a true and correct copy of a press release issued by the OAG, dated November 10, 2021.

22. Attached hereto as **Exhibit 17** is a true and correct copy of a press release issued by the Albany County District Attorney David Soares, dated January 4, 2022.

23. Attached hereto as **Exhibit 18** is a true and correct copy of a press release issued by the OAG, dated January 20, 2022.

24. Attached hereto as **Exhibit 19** is a true and correct copy of a news article, *New York attorney general labels Andrew Cuomo a 'sick, pathetic man,'* published in The Hill, dated March

7, 2022 and publicly available at <https://thehill.com/homenews/state-watch/597161-new-york-attorney-general-labels-andrew-cuomo-a-sick-pathetic-man/>.

Dated: New York, New York
October 5, 2022

/s/ Theresa Trzaskoma
Theresa Trzaskoma